

## CONGRESSIONAL RECORD SUMMARY

Thursday, October 10, 2002

*The Senate was not in session on Friday, October 11, 2002.  
The House met in a pro forma session on Friday, October 11, 2002.*

### SENATE

#### Measures Introduced:

**S. 3093.** A bill to develop and deploy technologies to defeat Internet jamming and censorship; to the Committee on Commerce, Science, and Transportation.

Wyden

*Pages S 10359, S 10368-70*

**S. 3096.** A bill to *amend chapter 44 of title 18, United States Code*, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies; to the Committee on the Judiciary.

Kohl

*Pages S 10359, S 10375-7*

**S. 3100.** *A bill to amend title 18, United States Code, to limit the misuse of social security numbers, to establish criminal penalties for such misuse, and for other purposes.*

Feinstein

*Pages S 10359, S 10379-80*

**S. 3101.** A bill to amend title IV of the Missing Children's Assistance Act to provide for increased funding for the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

Leahy

*Pages S 10359, S 10380*

**S. 3102.** A bill to amend the Communications Act of 1934 *to clarify and reaffirm State and local authority to regulate* the placement, construction, and modification of broadcast transmission facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Leahy

*Pages S 10359, S 10380-3*

**S. 3103.** A bill to amend the Communications Act of 1934 *to clarify and reaffirm State and local authority to regulate* the placement, construction, and modification of personal wireless services facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Leahy

*Pages S 10359, S 10380-3*

**S. 3107.** A bill to improve the security of State-issued driver's licenses, enhance highway safety, verify personal identity, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Durbin

*Pages S 10359-60, S 10385-8*

#### Measure Reported:

**S. 3054,** to provide for full voting representation in Congress for the citizens of the District of Columbia.

*Pages S 10359, D 1072*

#### Measure Passed:

**Continuing Appropriations: Senate passed H.J. Res. 122, making further continuing appropriations for the fiscal year 2003, clearing the measure for the President.**

*Pages S 10395, D 1072*

#### S.J. Res. 45. Further Resolution on Iraq:

**Senate completed consideration of S.J. Res. 45**, to authorize the use of United States Armed Forces against Iraq, taking action on the following amendments proposed thereto:

*Pages S 10233-72, D 1073*

**Adopted:**

**Lieberman/Warner Modified Amendment No. 4856**, in the nature of a substitute.

*Pages S 10237-43, D 1073*

**Rejected:**

**By 14 yeas to 86 nays (Vote No. 234), Byrd Amendment No. 4868 (to Amendment No. 4856, as modified), to provide statutory construction that constitutional authorities remain unaffected and that no additional grant of authority is made to the President not directly related to the existing threat posed by Iraq.**

*Pages S 10243-50, D 1073*

*"... Historically, the way in which the delegation of the authority under the constitutional separation of powers doctrine functions is there have to be some parameters to the delegation. For example, we could not delegate to the President the authority to pick and confirm any Supreme Court Justice he wanted to confirm. The essence of the constitutional argument which my friend from West Virginia makes is, I assume, that there are no parameters to this delegation; therefore, the delegation per se is unconstitutional. I assume that is the rationale. But as I read this grant of authority, it is not so broad as to make it unconstitutional for us, under the war clause of the Constitution, to delegate to the President the power to use force if certain conditions exist..." (Biden, page S 10249)*

**During consideration of this measure, Senate also took the following action:**

By 75 yeas to 25 nays (Vote No. 233), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the **Lieberman/Warner Modified Amendment No. 4856**, in the nature of a substitute.

*Pages S 10243, D 1073*

By unanimous-consent, the cloture vote on the joint resolution was vitiated.

*Pages S 10272, D 1073*

**By unanimous-consent, S.J. Res. 45, as amended, was indefinitely postponed.**

*Pages S 10243, D 1073*

**Reporting of Appropriations Bill:**

**Senate began consideration of the motion to proceed to consideration of S. Res. 304, encouraging the Senate Committee on Appropriations to report thirteen, fiscally responsible, bipartisan appropriations bills to the Senate not later than July 31, 2002, on Wednesday, October 16, 2002.**

*Pages S 10398, D1073*

A motion was entered to close further debate on the motion to proceed to consideration of the resolution and, in accordance with Rule XXII of the Standing Rules of the Senate, a cloture vote will occur at 12 noon, on Wednesday, October 16, 2002.

*Pages S 10398-9, D 1073*

Subsequently, the motion to proceed was withdrawn.

*Pages S 10399, D 1073*

**H.R. 5011. Military Construction--Conference Report:**

*Senate agreed to the conference report on H.R. 5011*, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, clearing the measure for the President.

*Pages S 10396-7, D 1073*

**H.R. 3295. Election Reform Conference Report Agreement:**

A unanimous-consent agreement was reached providing for consideration of the conference report on **H.R. 3295**, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, at 11 a.m., on Tuesday, October 15, 2002, and continue at 2:15 p.m., on Wednesday, October 16, 2002, with a vote to occur on adoption of the conference report.

*Pages S 10398-9, D 1073*

**H.R. 5010. Defense Appropriations Conference Report Agreement:**

A unanimous-consent agreement was reached providing for consideration of the conference report on **H.R. 5010**, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, on Wednesday, September 16, 2002, with a vote to occur on adoption of the conference report.

*Page D 1073*

**Nominations Received:**

**Senate received the following nominations:**

**Cormac J. Carney**, of California, to be **United States District Judge for the Central District of California**, vice Carlos R. Moreno, resigned.

**John R. Adams**, of Ohio, to be **United States District Judge for the Northern District of Ohio**, vice George Washington White, retired.

**J. Daniel Breen**, of Tennessee, to be **United States District Judge for the Western District of Tennessee**, vice Julia Smith Gibbons, elevated.

**Thomas A. Varlan**, of Tennessee, to be **United States District Judge for the Eastern District of Tennessee**, vice Robert Leon Jordan, retired.

*Pages S 10399, D 1074*

**Remarks:**

Retirement Of Senator Jesse Helms.

Snowe

*Pages S 10343-4*

Tribute To Sen. Strom Thurmond.

Shelby

*Page S 10344*

**Remarks (Cont.):**

**The Judiciary Committee's 100<sup>th</sup> Vote In 15 Months On Judicial Nominations.**

*"...Apparently, however, Republicans believe that there is partisan hay to be harvested in complaining that every single judicial nominee has not yet been confirmed. The fact is that we have proceeded with hearings for 103 of the 110 judicial nominees eligible for hearings 94 percent, for those focused on percentages. The other 17 judicial nominees who have not participated in a hearing either lack home-state consent or peer reviews or both. Thus, when partisans harp on the nominations of Terrence Boyle and Carolyn Kuhl and other nominees without home-State Senator support, they know they are being misleading. Senator Hatch never proceeded on a nomination without home- State Senator support and acknowledges that this is the Senate's tradition. At least six of the President's circuit court nominees fall into this category and, for many if not all of them, the White House knew about the lack of home-State Senator support before the nominations were made. The committee has voted on 100 of the 103 judicial nominees eligible for votes--97 percent. Of those voted upon, 98--98 percent have been reported favorably to the Senate. In addition to the 80 judges already confirmed, another 18 approved by the Judiciary Committee await Senate action on the Senate Executive Calendar..."*

Leahy

*Pages S 10344-7*

**HOUSE**

*The House proceedings of Thursday, October 10, 2002 and Friday, October 11, 2002  
are combined in this issue of the Congressional Record.*

**Bills Introduced:**

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**H.R. 5600.** A bill *to amend the Immigration and Nationality Act to provide for permanent resident status for certain long-term resident workers and college-bound students, to modify the worldwide level of family-sponsored immigrants in order to promote family unification, and for other purposes*; to the Committee on the Judiciary.

Gephardt

*Page H 7892*

**H.R. 5601.** A bill *to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for purposes*; to the Committee on Education and the Workforce. considered and passed.

Hoekstra

*Page H 7892*

**H.R. 5604.** A bill *to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse;" to the Committee on Transportation and Infrastructure.*

Carson

*Page H 7892*

**H.R. 5614.** A bill *to prohibit fraudulent, manipulative, or deceptive acts in electric and natural gas markets, to provide for audit trails and transparency in those markets, to increase penalties for illegal acts under the Federal Power Act and Natural Gas Act, to reexamine certain exemptions under the Federal Power Act and the Public Utility Holding Company Act of 1935, to expand the authority of the Federal Energy Regulatory Commission to order refunds of unjust and discriminatory rates, and for other purposes*; to the Committee on Energy and Commerce.

Dingell

*Page H 7893*

**Bills Introduced (Cont.):**

**H.R. 5615.** A bill *to direct the Administrator of General Services to convey to Fresno County, California,*

*the existing Federal courthouse in that county; to the Committee on Transportation and Infrastructure.*

Dooley

*Page H 7893*

**H.R. 5616.** A bill *to provide for the expiration of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, known as the Helms-Burton Act, on March 31, 2003*; to the Committee on International Relations, and in addition to the Committees on Ways and Means, the Judiciary, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Dooley

*Page H 7893*

**H.R. 5619.** A bill *to require the Secretary of the Treasury to take certain actions with respect to the prevention of illegal transshipments*, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Hayes

*Page H 7893*

**H.R. 5620.** A bill *for the relief of the Pottawatomí Nation in Canada for settlement of certain claims against the United States*; to the Committee on Resources.

Kildee

*Page H 7893*

**H.R. 5621.** A bill *to amend the Federal Credit Union Act to expand membership, service, and investment opportunities for credit unions, to expand credit union services within financially underserved communities, to enhance member protections in certain credit union conversions*, and for other purposes; to the Committee on Financial Services.

LaFalce

*Page H 7893*

**H.R. 5625.** A bill *to restore aiding and abetting liability under the Federal securities laws; to the Committee on Financial Services*, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Markey

*Page H 7893*

**H.R. 5634.** A bill *to amend title 28, United States Code, to provide prejudgment interest on certain judgments against the United States*; to the Committee on the Judiciary.

Smith

*Page H 7894*

**H.R. 5635.** A bill *to prohibit the Federal Government from entering into contracts with companies that do not include certifications for certain financial reports required under the Securities Exchange Act of 1934*; to the Committee on Government Reform, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Strickland

*Page H 7894*

**H.R. 5637.** A bill *to require Federal agencies to develop and implement policies and practices that promote environmental justice*, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Udall

*Page H 7894*

**Bills Introduced (Cont.):**

**H.R. 5639.** A bill *to clarify the rights of United States citizenship and eligibility for Federal benefits for*

*all enrolled members of the Kickapoo Tribe of Oklahoma and the Kickapoo Traditional Tribe of Texas, and for other purposes; to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Watkins

*Page H 7894*

**H.R. 5640.** *A bill to amend title 5, United States Code, to ensure that the right of Federal employees to display the flag of the United States not be abridged; to the Committee on Government Reform.*

Weldon

*Page H 7894*

**H.J. Res. 121.** *A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes; to the Committee on Appropriations.*

Young

*Page H 7894*

**H.J. Res. 122.** *A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget; Committees on Appropriations and the Budget discharged; considered and passed.*

Young

*Page H 7894*

**H. Res. 581.** *A resolution recognizing the importance and accomplishments of the Thurgood Marshall Scholarship Fund; to the Committee on Education and the Workforce.*

Johnson

*Page H 7894*

#### **Reports Filed:**

Reports were filed today as follows:

*Revised Suballocation of Budget Allocations for Fiscal Year 2003 (H. Rept. 107-738);*

*H. Res. 580, providing for consideration of H.J. Res. 122, making further continuing appropriations for the fiscal year 2003, (H. Rept. 107-739);*

*Pages H 7892, D 1075*

#### **Executive Communications:**

**EC - 9620.** A letter from the Director, Office of Government Ethics, transmitting the Office's final rule -- *Technical Updating Amendments to Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations* (RINs: 3209-AA00 and 3209-AA04) received October 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

**EC - 9621.** A letter from the Chief Judge, Superior Court of the District of Columbia, transmitting the *Superior Court's Family Court Transition Plan*; to the Committee on Government Reform.

*Page H 7891*

#### **H.R. 5010 - DOD Appropriations Conference Report:**

**The House agreed to the conference report on H.R. 5010**, making appropriations for the Department of Defense for the fiscal year ending September 30, 2003 by a ye and nay vote of 409 yeas to 14 nays, Roll No. 457.

*Pages H 7799-H 7812, D 1075*

#### **H.J. Res. 122 - Making Further Continuing Appropriations Through Oct. 18:**

*The House passed H.J. Res. 122, making further continuing appropriations for the fiscal year 2003, by a recorded vote of 272 yeas to 144 noes, Roll No. 461.*

*Pages H 7812, H 7818-36, D 1075*

**Rejected the Obey motion** that sought to recommit the joint resolution to the Committee on Appropriations with instructions to report it back to the House forthwith with an amendment that continues appropriations through October 12, 2002 by a yeas and nays vote of 202 yeas to 214 nays, Roll No. 460.

*Pages H 7835, D 1075*

Pursuant to the rule as amended, the amendment to the joint resolution to continue appropriations through October 18, 2002 was considered as adopted.

*Pages H 7834, D 1075*

**H. Res. 580**, the rule that provided for consideration of the joint resolution was agreed to by a yeas and nays vote of 225 yeas to 193 nays, Roll No. 459. Earlier, agreed to the Hastings of Washington amendment in the nature of a substitute that included an amendment to **H.J. Res. 122**.

*Pages H 7825, D 1075*

#### **H.R. 3295 - Help America Vote Act:**

**The House agreed to the conference report on H.R. 3295**, to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, by a yeas and nays vote of 357 yeas to 48 nays, Roll No. 462.

*Pages H 7836-54, D 1076*

*"...I'm disappointed that this conference agreement also includes provisions that can lead to the disproportionate disenfranchisement of our Nation's minority voters. It requires first-time voters who register by mail to bring current photo identification to the polls or a copy of a current utility bill, bank statement, paycheck, or other government document that shows the name and current address of the voter. Our Federal courts have recognized that the use of a photo ID causes a disparate impact on ethnic and racial minority communities..." (Solis, H 7851-52)*

**Without objection, the House insisted on its disagreement to the amendment of the Senate to the title.** And, the House agreed to **H. Con. Res. 508**, resolving all disagreements between the House of Representatives and Senate with respect to H.R. 3295.

*Pages H 7854, D 1076*

The bill was considered pursuant to the order of the House of Oct. 9.

*Page D 1076*

#### **Combined Consideration of Measures:**

*The Chair entertained the following combined request under the Speaker's guidelines as recorded on page 712 of the manual with assurances that it had been cleared by the bipartisan floor and all Committee leaderships. The Majority Leader asked unanimous consent and it was subsequently agreed to that the House:*

1. Be considered to have discharged from Committee and passed **H.R. 5205**, *Permitting estimated amounts for longevity component of the Federal benefit payment to certain retirees of the Metropolitan Police Department of the District of Columbia;*

*Pages H 7859-83, D 1076*

#### **Combined Consideration of Measures (Cont.):**

2. Be considered to have discharged from Committee and agreed to **H. Res. 572**, *Honoring the 225th Anniversary of the Signing of the Articles of Confederation;*

*Pages H 7883-85, D 1076*

3. Be considered to have discharged from Committee, amended, and agreed to: **H. Con. Res. 487**, *Authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the Congressional Record on the terrorist attacks of September 11, 2001, in the respective forms placed at the desk;*

*Pages H 7885-86, D 1076*

4. Be considered to have amended and passed **H.R. 5400**, *agreement between the Government of the United States and Mexico concerning the **Border Environment Cooperation Commission** and North American Development Bank; by the committee amendment placed at the desk;*

*Pages H 7886-87, D 1077*

5. That the committees being discharged be printed in the Record, the texts of each measure and any amendment thereto be considered as read and printed in the Record and that motions to reconsider each of these actions be laid upon the table.

*Pages H 7887, D 1077*

#### **Committee Meetings:**

**Committee on the Judiciary:** *Subcommittee on the Constitution held an oversight hearing on “A Judicial Diminished is Justice Denied: the Constitution, the Senate, and the Vacancy Crisis in the Federal Judiciary.” Testimony was heard from public witnesses.*

**Committee on the Judiciary:** Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on **H.R. 5519**, *Reducing Americans' Vulnerability to Ecstasy Act of 2002.*

*Page D 1077*

**Committee on Rules:** *Granted, by voice vote, a closed rule providing 1 hour of debate on H.J. Res. 122, making further continuing appropriations for the fiscal year 2003. The rule waives all points of order against consideration of the joint resolution. The rule provides one motion to recommit. Testimony was heard from Chairman Young and Representative Obey.*

*Page D 1078*

#### **Joint Meetings:**

Conferees, met to resolve the differences on the Senate and House passed versions of **H.R. 4628**, *to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System*, but did not complete action thereon, and recessed subject to the call.

Conferees, on Wednesday, October 9, agreed to file a conference report on, the differences between the Senate and House passed versions of **H.R. 5010**, *to authorize appropriations for the Department of Defense for the fiscal year ending September 30, 2002.*

*Page D 1078*



### Joint Meetings (Cont.):

Conferees, on Tuesday, October 8, agreed to file a conference report on the differences between the Senate and House passed versions of **H.R. 3295**, *to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission.*

Page D 1078

### Congressional Program Ahead:

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**Committee on Government Reform: 10/17/02 @ 10:00 a.m. Subcommittee on the District of Columbia, oversight hearing on Work Plan and Accomplishments of the Criminal Justice Coordinating Council; followed by markup of H.R. 5515, Court Services and Offender Supervision Agency Interstate Supervision Act of 2002. 2154 Rayburn.**

Page D 1079 [From Record of 10/10/02]

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**Committee on the Judiciary: 10/16/02 @ 2:00 p.m. Subcommittee on Immigration, Border Security, and Claims, oversight hearing on "The United States and Canada Safe Third Country Agreement." 2237 Rayburn.**

Page D 1082

**Committee on the Judiciary: 10/17/02 @ 2:00 p.m. Subcommittee on Immigration, Border Security, and Claims, oversight hearing on "Use of DOJ Funds by State and Local Correctional Facilities to Assist the INS in Identifying and Deporting Criminal Aliens on an Expedited Basis." 2237 Rayburn.**

Pages D 1082-83

**Committee on Rules: 10/15/02 @ 6:00 p.m. To consider a resolution making further continuing appropriations for fiscal year 2003. H- 313 Capitol.**

Page D 1083 [From Record of 10/11/02]

### Remarks:

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Revisions to the 302(a) Allocations and Budgetary Aggregates Established by the Concurrent Resolution on the Budget for Fiscal Year 2002.

Nussle

Page H 7890 [From Record of 10/10/02]

#### **Introduction of the Private Party Judicial Fairness Act.**

*"...The Private Party Judicial Fairness Act allows for pre-judgment interest to accrue in cases where it is now prohibited. Interest will be paid from the date the action is filed in the **United States Court of Federal Claims**. Upon receipt of a judgment against the United States, this legislation will allow private parties to receive the proper proceeds. It also will create an incentive for the government to process these suits at a reasonable pace. Under current law, a narrow group of suits against the United States are ineligible for pre-judgment interest..."*

Smith

Page E 1816

#### **Introduction of the House Democrats' Earned Legalization and Family Unification Legislation.**

*"...The sound policy rationales that were propelling us to re-craft our immigration laws before September 11 continue to exist today and are even more urgent. To the core values of family unity, fundamental fairness and economic opportunity that we articulated in the Democratic Statement of Principles on Immigration a year ago, we now add a pressing concern--the need to bring the undocumented population out of the shadows and into the light of greater accountability so that they too can aid in effectively securing our great nation. The need for comprehensive immigration reform has not abated, and our resolve to move forward in this effort remains..."*

Gephardt

Pages E 1823-24 [From Record of 10/11/02]

### Remarks (Cont.):

Introduction of Stop Enablers of Fraud Act. <u>Markey</u>	<i>Page E 1831</i>
Child Abduction Prevention Act. [ <b>H.R. 5422</b> ] <u>Terry</u>	<i>Page E 1838</i>
The Federal Credit Union Services Expansion Act of 2002. <u>LaFalce</u>	<i>Pages R 1841-42</i>
Honoring Deputy Assistant Director Katherine Crowley of the United States Secret Service. <u>King</u>	<i>Page E 1844</i>
Introducing the Environmental Justice Act of 2002. <u>Solis</u>	<i>Pages E 1845-46</i>
Environmental Justice Act of 2002. <u>Udall</u>	<i>Page E 1855-56</i>
Honoring a True Public Servant: Senator Thomas Kuchel. <u>Horn</u>	<i>Pages E 1856-59</i>
Conference Report on <b>H.R. 3295</b> , Help America Vote Act of 2002. <u>Reyes</u> <u>Barcia</u>	<i>Pages E 1861-62</i> <i>Page E 1862 [From Record of 10/11/02]</i>

**Next SENATE MEETING: Tuesday, 10:00 a.m., October 15, 2002.**  
**Next HOUSE MEETING: Tuesday, 12:30 p.m., October 15, 2002.**

**OLA: S. Schwarz, A. Santos**